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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/370,770	08/09/1999	JUSTIN CHE-I CHUANG	2685/5259	8481

26652 7590 12/01/2003

AT&T CORP.
P.O. BOX 4110
MIDDLETOWN, NJ 07748

EXAMINER

LUGO, DAVID B

ART UNIT	PAPER NUMBER
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2634

DATE MAILED: 12/01/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/370,770

Applicant(s)

CHUANG ET AL.

Examiner

David B. Lugo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-12 and 16-19 is/are allowed.
- 6) ☒ Claim(s) 13-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 9/25/03 have been fully considered but they are not persuasive.
2. Regarding claims 13-15, Applicant admits that equation 1 of the reference to Furuskär et al. represents a performance measuring function that uses at least one parameter, but contends that there is no teaching of calculating a threshold value including the step of determining a range of signal quality values for which the performance criteria function is maximized for each of the link adaptation modes. The Examiner respectfully disagrees.
3. In page 1285, the final paragraph starting on the left hand column of the reference to Furuskär et al., it is stated that the task of the link adaptation algorithm is to always select the scheme n maximizing throughput S_n , and that each link adaptation scheme achieves the highest throughput among the different schemes for a certain link quality. Reference is made to Figure 1, which clearly shows that there is a range of link quality values for which each scheme maximizes the throughput. Thus, a range bounded by threshold values for each link adaptation mode is explicitly shown in Fig. 1, where the thresholds correspond to the link quality values for which each link adaptation scheme begins and finishes realizing the highest throughput with respect to the other link adaptation schemes.
4. The rejection of claims 13-15 is maintained, and is restated below.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. Claims 13-15 are rejected under 35 U.S.C. 102(a) as being anticipated by Furuskär et al.
7. Regarding claim 13, Furuskär et al. teach the calculation of threshold values for each of at least one link adaptation modes where a performance criteria function is calculated using at least one parameter (p. 1285, equation 1), and for each link adaptation mode in Table 1, a range of signal quality values for which the performance criteria function is maximized is determined (see p. 1285, left hand column, final paragraph, Fig. 1), where the environment is considered a retransmission environment as retransmissions are performed as necessary (see p. 1285, left hand column, section B).
8. Regarding claim 14, the performance criteria function is a throughput function, S_n , dependent upon a radio interference rate, R , and a block error rate value, $BLER_n$.
9. Regarding claim 15, the signal quality value is a function of a signal to interference ratio (C/I).

Allowable Subject Matter

10. Claims 1-12 and 16-19 are allowed.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **David B. Lugo** whose telephone number is (703) 305-0954.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Stephen Chin**, can be reached at (703) 305-4714.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

P.O. Box 1450

Alexandria, VA 22313-1450

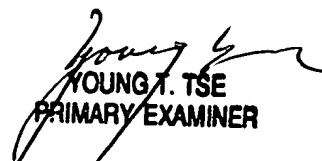
or faxed to:

(703) 872-9306

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

dbl
11/18/03


YOUNG T. TSE
PRIMARY EXAMINER